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October 27, 2022

BY ECF

Honorable Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl St.
New York, New York 10007

Re: Damien Guarniere v. City of New York, et al.,
21 Civ. 1739 (DLC)

Your Honor:

I am a Senior Counsel in the New York City Law Department, attorney for defendant City of New York in the above-referenced action. I write pursuant to Your Honor's Individual Rule 1.E to respectfully request a brief extension of the fact discovery deadline for the limited purpose of deposing plaintiff. Defendants request that plaintiff be compelled to provide dates on which plaintiff will available be produced for his deposition, and that he appear for his deposition no later than November 17, 2022.

By way of background, the Court Ordered on September 2, 2022 (Dkt. 56) that all fact discovery must be completed by October 27, 2022. Subsequent to that Order, the undersigned filed a motion on September 21, 2022 (Dkt. 58) to substitute himself as the newly assigned attorney in place of Christopher Arko, Esq. Promptly thereafter, on September 30, 2022, the undersigned emailed plaintiff's counsel regarding plaintiff's availability to be deposed on Monday, October 24, 2022 at 10:00 a.m. via Zoom. Due to family illness, the undersigned requested a brief adjournment of the October 24th deposition, and the parties thereafter agreed via email to conduct plaintiff's deposition today, on October 27th. However, plaintiff's counsel informed the undersigned yesterday afternoon that he would not be able to produce plaintiff for today, and that he is working to ascertain a new date when plaintiff will be available which would be mutually suitable for the parties.

This is the undersigned's first request for a limited extension for the discrete purpose of conducting plaintiff's deposition. As plaintiff's counsel represented that he is making efforts to produce plaintiff, it is defendant City's understanding that plaintiff's counsel consents to their request for a brief extension of the fact discovery deadline to depose plaintiff. Upon information and belief, granting this request will not impact any other scheduled dates in this action. Finally, defendants acknowledge that Rule 1.E of the Court's Individual Practices in Civil

Cases requires that absent an emergency, the request for an extension of time shall be made at least 48 hours prior to the scheduled appearance. Given that the undersigned was only informed yesterday afternoon (while he was in court on an unrelated matter) that plaintiff would not be able to appear today, defendant City respectfully requests that the Court waive the 48-hour rule and grant the instant request.

I thank the Court for its consideration herein.

Respectfully submitted,

/s/ Daniel M. Braun

Daniel M. Braun
Senior Counsel

cc: **By ECF**

Samuel DePaola, Esq.
Attorney or plaintiff

Douglas LaBarbera, Esq.
Mitchell Garber, Esq.
Attorneys for defendant Ibrahim

Plaintiff's counsel shall cooperate and provide dates for plaintiff's deposition to occur before 11/17. ~~10/28/22~~
Deposition of plaintiff may be completed as soon as before 11/17.
James Oba
10/28/22